IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.1508 of 2006

M/s.Donom Dieu Engineers Pvt.Ltd. Petitioner
Vs.
The Regional/Assistant Provident
Fund Commissioner & Recovery Officer
and ors. Respondents

Mr.S.S.Kulkarni for petitioner.
Mr.Suresh Kumar for Resp.Nos.1 to 3.
Ms.V.Mhaispurkar, AGP for Resp.No.4.

CORAM: B.H.MARLAPALLE,J.

August 25, 2006.

P.C.

. Heard Mr.Kulkarni, the learned counsel for the petitioner - company. It is submitted that an appeal has been filed against the impugned orders for recovery of the provident fund amount with interest thereon along with penalty etc. under Section 7-I of the Employees Provident Funds & Miscellaneous Provisions Act, 1952. However, the appellate authority not being available for the time being to hear and decide the said appeal, the applications filed for delay condonations or for waiver of deposit or for stay could not be heard.

. Pursuant to the order passed by this Court on 13th April 2006, an amount of Rs.50,000/- has been

deposited by the petitioner - company with the Registry of this Court. It is noted that the respondent has sought recoveries against the petitioner - company by two different orders. Under the first order dated 24/5/2004 an amount of Rs.1,19,813/- has been sought to be recovered from the petitioner and on perusal of the copy of the appeal pending before the competent authority it is clear that the order dated 24/5/2004 is not a subject matter of challenge in the said appeal. What is challenged in the said appeal is the order dated 18/11/2004 which seeks a recovery of Rs.3,86,738/-.

. It is, therefore, directed that if the petitioner deposits 50 per cent of the recovery amount of Rs.3,86,738/-, including the amount already deposited with the Registrar of this Court, within a period of four weeks from today with the Respondent no.1, the said respondent shall not take any further coercive steps against the petitioner until the Appellate Tribunal hears the application for waiver of deposit in Appeal No.ATA 117(9) of 2006 presently pending before the Employees' Provident Fund Appellate Tribunal, New Delhi. The amount of

Rs.50,000/- deposited with the Registry of this Court is directed to be transferred forthwith to the Respondent No.1 on an application to be filed by the said Respondent.

. The petition is disposed off in terms of the above order. If there is any grievance the petitioner has in respect of other orders, this order will not come in its way to take recourse to such legal remedy as is available in law.

(B.H.MARLAPALLE,J.)